

August 30, 1955

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SEP 28 1998

CONCORD, N.H.

James J. Barry, Commissioner
Department of Public Welfare
State House Annex
Concord, New Hampshire

Dear Mr. Barry:

You have raised several questions by your letter of August 11, 1955, regarding agreements between the State and political subdivisions under the OASI program. The questions arise because of the recent enactment of chapter 301 of the Laws of 1955 whereby exclusions from coverage of certain categories of employees is mandatory and in the case of other categories is made optional with the subdivision.

With respect to those subdivisions which properly adopted an Article at their last Town Meeting for OASI coverage and executed an agreement with the State before the effective date of chapter 301, these agreements are valid and properly give coverage in the manner provided prior to the enactment of said chapter 301.

Where subdivisions voted to have OASI coverage at the last Town Meeting but did not execute an agreement with the State prior to the enactment of said chapter 301, it is clear that they would not be entitled to any optional exclusions as it is the opinion of this office this election must be made by the voters of the town and not by the officials who merely administer the program as instructed by the voters when adopting the Article in the warrant.

With respect to the mandatory exclusions in the above mentioned case, the answer is not as clear but it is my opinion that any agreement executed after the effective date of said chapter 301 would have to include these mandatory exclusions, and as the voters of the subdivisions have not had the opportunity to vote upon the question of whether they wish to extend OASI coverage to their employees, some of whom will be mandatorily excluded, I do not believe that the Article adopted at the Town Meeting authorizes the subdivision to enter into an agreement subsequent to said date. The question should be resubmitted to the voters at either a properly warned special meeting or at the next regular meeting so that the desire of the voters may be determined with respect to the OASI program as it is now available for their employees.

Very truly yours,

RCD/aml

Richard C. Duncan
Assistant Attorney General